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June 17, 2010

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re: WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337  
Notice of *Ex Parte* Presentation**

Dear Ms. Dortch:

On June 16, 2010, Jeff Wilson of Dickey Rural Networks ("DRN"), and John Kuykendall of John Staurulakis, Inc. ("JSI") met with Amy Bender, Gary Seigel and Lisa Gelb of the Wireline Competition Bureau Telecommunications Access Policy Division. Joining the meeting by teleconference were Jim Howard and Gordon Dauchy of JSI. DRN and JSI representatives discussed the potential of seeking forbearance from Section 54.305(b) of the Commission's rules which limit universal service funds for acquired exchanges. Specifically addressed were two acquired exchanges for which additional support would close the broadband gap for DRN's entire service area by enabling subscribers in the two exchanges to have at least four Mbps download speed, the minimum level of broadband offered in all of the other exchanges within the study area. A copy of the presentation which was discussed at the meeting is attached.

Please contact the undersigned with any questions.

Respectfully submitted,

/s/ John Kuykendall

John Kuykendall  
Vice President

on behalf of

Dickey Rural Networks

cc: Amy Bender  
Gary Seigel  
Lisa Gelb

Attachment

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## *Dickey Rural Networks*

# **Closing the Broadband Gap in Dickey Rural Network's Service Area**

**Ex Parte Presentation**

**June 16, 2010**



# Dickey Rural Networks

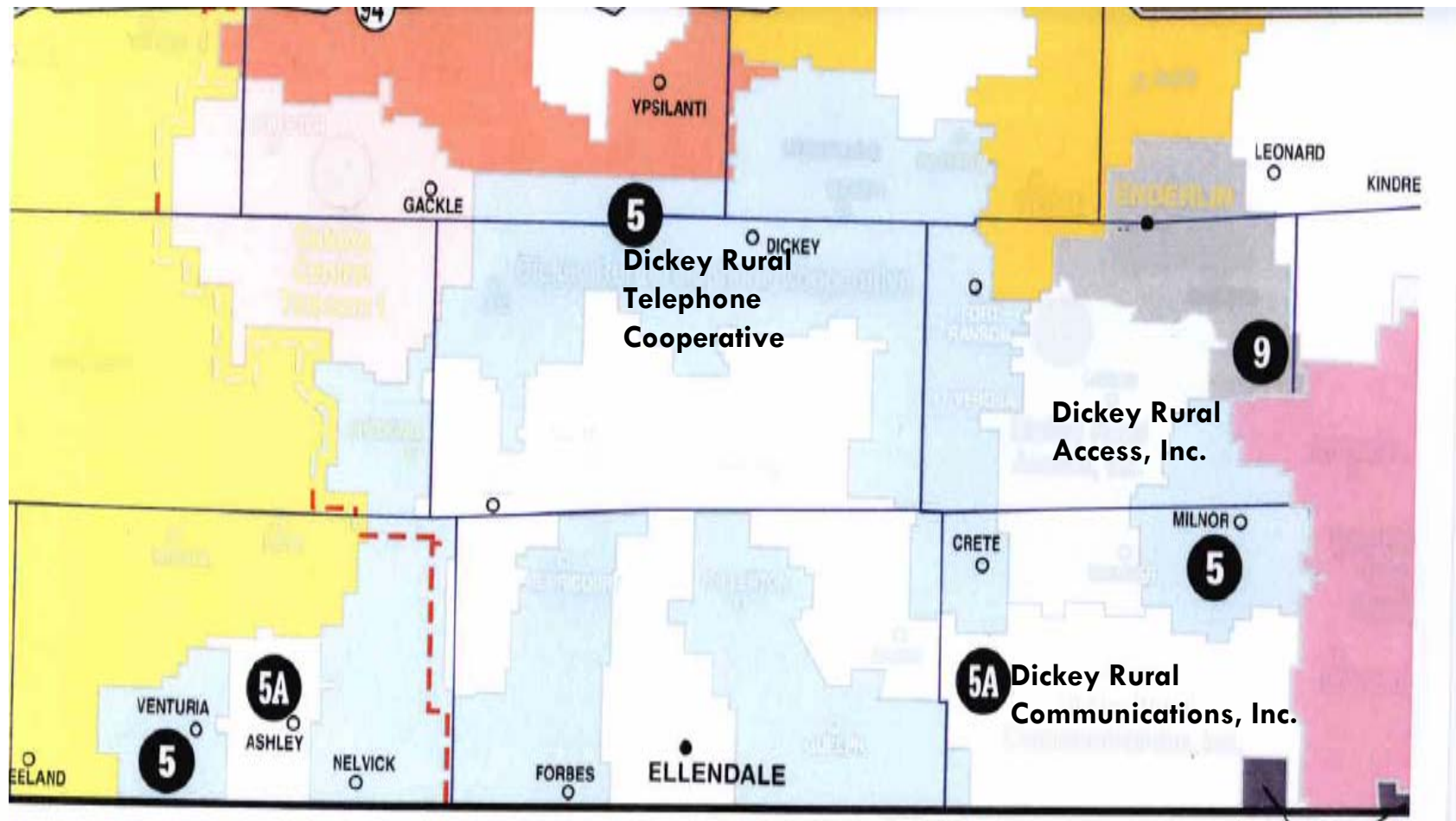
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- ❑ 1950 -Dickey Rural Telephone Cooperative (DRTC) was created to bring telephone service to rural southeastern North Dakota.
  - First telephone cooperative in North Dakota.
- ❑ 1966 – Dickey Rural Communications (DRC), a subsidiary of DRTC, acquired approx. 6,500 access lines from US West.
- ❑ 2002 – Dickey Rural Access (DRA), another subsidiary of DRTC, acquired approx. 2,500 access lines in the Gwinner and Lisbon exchanges from Citizens (now Frontier).
- ❑ These three companies together serve a single study area and are marketed as Dickey Rural Networks (DRN).



# Three Companies – One Study Area

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# Plan to Merge the Companies

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- ❑ DRN's goal is to ensure that all subscribers in its study area have the same level of high quality telecommunications and broadband service at the same just and reasonable rates.
- ❑ Part of the way that it plans to accomplish this goal is to merge the two subsidiaries – DRC & DRA - into DRTC.
  - This will enable all DRN subscribers to benefit as being part of the cooperative and will make the overall company operations more efficient and competitive.



# Purpose of Meeting

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- ❑ A second way that DCN seeks to accomplish the goal of ensuring that all subscribers in its study area have the same level of broadband service at the same affordable rates is to seek forbearance from application of Section 305(b) - the “parent trap rule” as it pertains to DRA.
  - This would allow the company to obtain additional universal service funding in order to deploy broadband with speeds at least 4 Mbps to the unserved exchanges of Gwinner and Lisbon **similar to what is offered to the remaining service area** as well as obtain additional efficiencies from the merging of the companies.
- ❑ This meeting is to discuss the potential of receiving forbearance of the parent trap rule.

# Existing USF Promotes Deployment of Broadband

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- ❑ Existing high-cost universal service mechanisms have served as a vehicle for DRTC and DRC to upgrade facilities in order to provide broadband of at least 4 Mbps.
  - “The High-Cost Program indirectly supports the provision of broadband.” Acting Chairman Copps Releases Report on Rural Broadband Strategy, GN Docket No. 09-29, 24 FCC Rcd 7366 (WCB 2009) at para. 127.

# DRN's Broadband Deployment

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- ❑ DRN began fiber-to-the-home (FTTH) construction in 2004 which is scheduled to be completed in 2010 with the exception of city of Ashley (which does offer broadband speeds of at least 4 Mbps) and the two exchanges purchased from Citizens – Gwinner and Lisbon.
  - The two exchanges are subject to the parent trap rule.
- ❑ Total access lines of all DRTC, DRC and DRA = 10,044.
  - Access lines per square mile = 1.78.
- ❑ Total broadband subscribers = 5,434.
  - Total broadband penetration per living unit = 64%.
  - FTTH broadband penetration per living unit = 71%.



# Participation in Community Broadband Education

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- ❑ DRN offers ongoing free Internet classes to its customers.
- ❑ The company also participates in the Rural PC Project, a joint project between NTCA, Communications Supply Service Association and Microsoft which:
  - Provides affordable and reliable PCs to rural consumers to enhance their quality of life;
  - enables low income consumers to have access to computing and internet technologies; and
  - increases broadband adoption in rural areas.

## Community Broadband Education (Cont'd)

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- ❑ Both offerings work in tandem in educating and providing affordable PCs for our customers.
  - To date, DRN has distributed over 375 laptops, held over 85 classes, and provided training to approx 1,000 customers.
  - A survey found that 55% of the people in the survey were over the age of 55. Majority of computer sales and computer training has been with this particular age group.

## Two Exchanges are Unserved

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- ❑ According to the FCC's National Broadband Plan:
  - “[a]n initial universalization target of 4 Mbps of *actual* download speed and 1 Mbps of *actual* upload speed, with an acceptable quality of service for interactive applications, would ensure universal access.” NBP - Chap. 8 – Availability.
- ❑ Broadband infrastructure providing at least **4 Mbps download and 1 Mbps upload** has been deployed in all DRN's exchanges except the two held by DRA which were purchased from Citizens - Gwinner and Lisbon.

# Reason Why Still Unserved

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- ❑ Gwinner and Lisbon exchanges have not been upgraded due to the parent trap rule limiting universal service funds when they were acquired.
  - Towns in the exchanges had very antiquated infrastructure that required immediate upgrading.
  - Remaining portion of exchanges are very rural, remote. Full universal service support needed to ensure that individuals residing in these areas do not continue to be disadvantaged as compared with the other DRN exchanges.
  - Even with safety valve support included, amount is still insufficient to upgrade plant to provide at least 4 Mbps download.

## Parent Trap Rule - Section 54.305 (b)

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- ❑ “A carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost loop support and local switching support for which the acquired exchanges were eligible prior to their transfer.”

# The Three-Prong Test for Forbearance is Met

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- ❑ Enforcement of the regulation is not necessary to ensure that “charges, practices, classifications, or regulations . . . are just and reasonable and not unjustly or unreasonably discriminatory.”
- ❑ Enforcement of the regulation is not necessary for the protection of consumers.
- ❑ Forbearance from applying such regulation is consistent with the public interest.

# Enforcement of Regulation is Not Necessary

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- ❑ To ensure that “charges, practices, classifications, or regulations . . . are just and reasonable and not unjustly or unreasonably discriminatory.”
  - DRN provides high quality telecommunications and broadband services of at least 4 Mbps in all of its other exchanges at just and reasonable rates that are not unjustly or unreasonably discriminatory and will do the same in the two unserved exchanges.

# Enforcement of Regulation is Not Necessary

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- ❑ For the protection of consumers.
  - The regulation was designed to “discourage carriers from transferring exchanges merely to increase their share of universal service support.” *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8942-43 (1997) (subsequent history omitted).
  - Not only has this purpose been long fulfilled, but its continued application is indeed harming consumers as it is an obstacle to the deployment of high-speed broadband to the consumers in the remote, rural areas of the exchanges.



# Forbearance is Consistent with the Public Interest

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- ❑ DRN has a proven track record of upgrading facilities to provide high quality telecommunications and broadband at speeds over 4 Mbps broadband at just and reasonable rates in all other areas as well as high penetration rates and will commit to doing the same in the unserved areas in the two exchanges.
- ❑ The result will be that all DRN's customers will be treated the same as the entire study area and will have the same level of high quality telecommunications and broadband service at the same just and reasonable rates.
- ❑ DRN will commit to reporting and status updates above and beyond what is otherwise required.
- ❑ Forbearance from the parent trap rule will eliminate the need to maintain separate records for the two exchanges when the companies are merged, thus creating greater efficiencies.

# Conclusion

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- ❑ The FCC's National Broadband Plan seeks to eventually close the broadband availability gap through funds made available to unserved areas from the Connect America Fund.
  - For the unserved areas within the two exchanges in DRN's service area, this could be many years.
- ❑ Grant of a forbearance petition of the parent trap rule for DRN would close that gap for DRN's entire service area now by using existing universal service fund mechanisms.
  - Would enable the unserved areas in the two exchanges purchased by DRA to receive broadband at speeds of at least 4 Mbps.
  - Would bring greater efficiencies when DRA and DRC merge with DRTC.